IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.111 OF 2004

Nila Milan Shah ..Appellant

V/s.

Milan M.Shah ..Respondent

Smt.S.I.Jayakar (Lalwani) for the appellant.

Mr.Kantawala i/by Kantawala & Co. for Respondent.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 8.10.2004.

PC

. Both Counsel submits that the consent terms have been already submitted to the Family court. The order passed by the Family court holding that the Family court has no jurisdiction and thereby disposing of the marriage petition is under challenge before this court. This court while admitting the matter on 23.09.2004 has granted the stay to the order of the Family court. As a result of which, the Family court as on today is entitled to dispose of the further application pending in the matter. However, we have also directed that the final order may not be passed by the Family court. In view of this, even though the consent terms have been presented to the Family court, the Family court is not in a position to pass the final order

disposing of the matter in terms of the consent terms. The learned Counsel for the Respondent has made a statement before us that the ground of want of jurisdiction is given up by him and he accepts that the Family court has jurisdiction in the matter.

2. Under these circumstances, in order to enable the Family court to record the consent terms and to dispose of the matter in terms of the consent terms tendered by the parties, we hereby direct and allow the Family court to pass an appropriate order in terms of the consent terms tendered by the parties.

3. In view of this concession given by the respondent and that a plea in respect of the jurisdiction has been given by the respondent, we find that the order passed by the Family court holding that it had no jurisdiction is not proper. We hereby quash and set aside that order and we hold that the Family court is having jurisdiction to deal with the matter of marriage petition filed by the present appellant.

4. In these terms we allow the appeal and finally set aside the order passed by the Family court. We further direct that in view of the fact that the parties have tendered the consent terms in Family court, the Family court shall pass an appropriate

order in the matter and release the pass-port.

5. With these directions, Appeal is disposed of.

. Parties to act on an ordinary copy of this order duly authenticated by the P.S./Sheristedar of this court as a true copy. ----

(R.S.Mohite,J) **(S.B.Mhase,J)**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.174 OF 2004
IN
FAMILY COURT APPEAL NO.111 OF 2004

Nila Milan Shah ..Applicant

V/s.

Milan M.Shah ..Respondent

Smt.S.I.Jayakar (Lalwani) for the applicant.

Mr.Kantawala i/by Kantawala & Co. for the Respondent

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 8.10.2004.

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. In view of disposal of the main appeal, Civil application does not survive and disposed of accordingly. Interim order stands vacated.

(R.S.Mohite,J) **(S.B.Mhase,J)**